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November 29, 2021

Via Certified Mail - Return Receipt Requested

My Imports USA LLC Attn: Legal Department 60 Brunswick Ave Edison, New Jersey 08817

Re: Notice and Demand Letter Pursuant to U.C.C. § 2-607;

New York Gen. Bus. Law §§ 349 and 350; and all other relevant state and local laws

To Whom It May Concern:

This letter serves as a preliminary notice and demand for corrective action by My Imports USA LLC ("MIU" or "You") pursuant to U.C.C. § 2-607(3)(a) concerning breaches of express and implied warranties – and violations of state consumer protection laws, including but not limited to New York General Business Law ("GBL") §§ 349 and 350 – related to our client, Eric Goldstein, and a class of all similarly situated purchasers (the "Class") of defective and falsely labeled Tag antiperspirant products manufactured and sold by You.

In or about October 2021, our client purchased a canister of deodorant labeled as "Tag Midnight, Fine Fragrance Body Spray, Long Lasting Scent" (the "Tag Product") in New York. The Tag Product was manufactured by You in New Jersey and sold by You in New York and across the United States. Our client's Tag Product was defective in that they contained elevated levels of Benzene, a carcinogenic and toxic chemical impurity that has been linked to leukemia and other cancers. On November 3, 2021, Valisure, an online pharmacy registered with the FDA, "detected high levels of benzene and other contaminants in specific batches of body spray products, some of which contain active pharmaceutical ingredients aluminum chlorohydrate or aluminum sesquichlorohydrate." This included the Tag Product manufactured by You, which contained as much as 14.1 parts per million of Benzene. Notably, the presence of Benzene in the Tag Product is avoidable, meaning the Tag Product could have been manufactured without

¹ VALISURE, VALISURE CITIZEN PETITION ON BENZENE IN BODY SPRAY PRODUCTS, Nov. 3, 2021, https://www.valisure.com/wp-content/uploads/Valisure-FDA-Citizen-Petition-on-Body-Spray-v4.0-3.pdf (the "Valisure Petition"), at 1.

² *Id.* at 12-13.

Benzene. There is no reason Benzene should be present in the Tag Product and there is no acceptable level of Benzene in the Tag Product.

In short, the Tag Product that our client and the Class purchased is worthless, as it contains Benzene, rendering it adulterated, misbranded, unusable, and unfit for humans. *See* 21 U.S.C. §§ 331(a), 352, 740.1(a); *see also Debernardis v. IQ Formulations, LLC*, 942 F.3d 1076, 1085 (11th Cir. 2019); *In re Valsartan, Losartan, & Irbesartan Prod. Liab. Litig.*, 2021 WL 222776, at *16 (D.N.J. Jan. 22, 2021). You violated express and implied warranties made to our client and the Class regarding the quality and safety of the Tag Product they purchased. *See* U.C.C. §§ 2-313, 2-314.

This letter also serves as notice of violation of GBL §§ 349 and 350, and all other relevant state and local laws. You violated GBL §§ 349 and 350 by failing to disclose that the Tag Product contained elevated levels of Benzene, rendering the Tag Product adulterated, misbranded, unusable, and unfit for human use. You also violated GBL §§ 349 and 350 by selling an adulterated and misbranded product in violation of the Food, Drugs, and Cosmetics Act. Based on these violations, our client and a subclass of New York consumers are entitled to statutory damages in the amount of \$550 per violation.

On behalf of our client and the Class, we hereby demand that You immediately (1) cease and desist from continuing to sell the defective Tag Product, and (2) make full restitution to all purchasers of the defective and falsely labeled Tag Product of all purchase money obtained from sales thereof.

We also demand that You preserve all documents and other evidence which refers or relates to any of the above-described practices including, but not limited to, the following:

- 1. All documents concerning the packaging, labeling, and manufacturing process for Your Tag Product;
- 2. All documents concerning the design, development, supply, production, extraction, and/or testing of the Tag Product manufactured by You;
- 3. All tests of the Tag Product manufactured by You;
- 4. All documents concerning the pricing, advertising, marketing, and/or sale of the Tag Product manufactured by You;
- 5. All communications with customers involving complaints or comments concerning the Tag Product manufactured by You;
- 6. All documents concerning communications with any retailer involved in the marketing or sale of the Tag Product manufactured by You;
- 7. All documents concerning communications with federal or state regulators; and

8. All documents concerning the total revenue derived from sales of the Tag Product.

If you contend that any statement in this letter is inaccurate in any respect, please provide us with your contentions and supporting documents immediately upon receipt of this letter.

Please contact me right away if you wish to discuss an appropriate way to remedy this matter. If I do not hear from you promptly, I will take that as an indication that you are not interested in doing so.

Very truly yours,

Sarah N. Westcot

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